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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,301	05/08/2001	Robert W. Killick	038441/0104	2790

7590                    06/18/2002

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[REDACTED] EXAMINER

PRYOR, ALTON NATHANIEL

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

1616

DATE MAILED: 06/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/831,301

Applicant(s)

Killick et al

Examiner

Alton Pryor

Art Unit

1616



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Apr 2, 2002

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-30 and 32-45 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 33 is/are allowed.

6)  Claim(s) 1-4, 11, 15, 16, 18-20, 22, 24, 27-30, 32, 39, and 40 is/are rejected.

7)  Claim(s) 5-10, 12-14, 17, 21, 23, 25, 26, 34-38, and 41-45 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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Applicant's arguments filed 4/2/02 have been fully considered but they are not persuasive.

Rejection of claims 1-4,11,15,16,18-20,22,24,27-30,32,39,40 under 35 U.S.C. 103(a) over Saphakkul and JP '898 will be maintained for reasons on record and reason as follows.

I.     Applicant argues that there is no discussion or suggestion that the cationic surfactant would assist in providing a homogenous composition comprising a lipophilic solvent and lipophilic nutrient. There is no suggestion in JP '898 that ammonium sulfate could be used in a homogenous composition containing a lipophilic solvent nor how to achieve such homogenous composition.

Examiner argues that Saphakkul and JP '898 individually teach aqueous solutions to solve solubility problems associated with lipophilic solvents. It is important to note that by definition a solution is a homogenous mixture. Since both references individually teach solutions, ample motivation is available for combining the prior art compositions. It would have been obvious to an artisan to combine the teachings of Saphakkul with the teachings of JP '898 since both references individually teach aqueous solutions.

II.    Applicant argues there exist no motivation to combine the prior art references since Saphakkul teaches his composition to be a hair drying composition and JP '898 teaches a composition functioning as a shampoo.

Examiner argues that ample motivation exists for combining Saphakkul and JP '898 since both references individually teach compositions functioning as conditioners.

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**III. Claim Objection / Allowable Subject Matter**

Objection to claims 5-10,12-14,17,21,23,25,26,34-38,41-45 on record will be maintained for reasons on record. Claim 33 is allowable for reasons on record. See paper no.3.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Telephonic Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton Pryor whose telephone number is (703) 308-4691. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for this Group is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.



Alton Pryor

Primary Examiner, AU 1616

6/14/02